

inches in thickness.

19. The surgical sponge of claim 18, wherein:

the RF tag does not exceed three grams in weight.

20. (amended) Apparatus comprising a surgical sponge made of an absorbent material for absorbing fluids during surgery and an RF tag attached to the sponge for allowing the sponge to be detected by a non-optical scanner means, the RF tag including means for indicating information about the sponge.

21. The apparatus of claim 20, wherein:

the RF tag does not exceed one inch in diameter and 0.20 inches in thickness.

22. The apparatus of claim 20, wherein:

the RF tag does not exceed three grams in weight.

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**REMARKS**

The claims have been amended. No new matter has been added to the application.

Applicant appreciates the withdrawal of the restriction requirement by the Examiner.

Claim 20 was rejected under 35 U.S.C. § 102(b) as being anticipated by Fabian ( 095). Applicant has amended claim 20 to overcome this rejection. Specifically, claim 20 now recites that the RF tag includes means for indicating information about the sponge. In Fabian, the RF tag simply allows the sponge to be detected - it has no means for indicating information about the sponge. Thus, the sponge and RF tag of Fabian would not be as useful as the sponge and RF tag of the present invention as claimed in claim 20.

Claims 1-14 were rejected under 35 U.S.C. § 103 as being unpatentable over Nosek in view of Sheehan, Cheesman et al., Fabian, Ghaem et al., and Ruiz et al. Applicant has amended claim 1 and respectfully traverses this rejection as it relates to claim 10.

Nosek does not disclose that the detecting means comprises a non-optical scanner means (claim 1), nor does it disclose that each sponge has an indicating means thereon for indicating the dry

weight of the sponge (claim 10). Both of these features are useful in combination with the other features of the claims in which they are recited, and the combination of elements in these claims is not suggested by the prior art.

The fact that the scanner means comprises non-optical scanner means (claim 1) allows the device of the present invention to determine the dry weight of the sponge, even if the indicating means disclosed in the present application is completely covered with blood. In Nosek, it appears that the dry weight of the sponge is entered manually, so there is no need to have a non-optical scanner means. In fact, there is no reason why, without the teaching of the present invention, one would consider using a non-optical scanner means in a device such as is described in Nosek.

Nosek describes indicia on the outside of a package of sponges including information about the sponges (see Col. 7, lines 26-29), but does not suggest that each sponge include an indicating means thereon, as claimed in claim 10. While Fabian discloses RF tags attached to sponges, he does not suggest including information in the RF tag. There is no reason why, without the teaching of the present invention, one would consider using an RF tag with information about a sponge on the sponge and in conjunction with a device such as is described in Nosek.

Claims 15-19, 21, and 22 were rejected under 35 U.S.C. § 103 as being unpatentable over Fabian ( 095) in view of Ghaem et al. Applicant respectfully traverses this rejection.

Applicant respectfully submits that the type of RF tag which would allow accurate inventory control would be too expensive to add to each sponge just to improve inventory control. It is only when one realizes that having information about the sponge will allow one to use the sponge/RF tag combination in a device similar to that disclosed in Nosek that one would be willing to go to the expense of using an RF tag capable of providing information about the sponge, instead of using a cheaper RF tag which simply allows detection of the sponge. One would not realize this without the assistance of the present patent application. Thus, it is

respectfully submitted that these claims are not rendered obvious by Fabian and Ghaem et al. and are thus allowable.


Applicant respectfully submits that the application is in condition for allowance. A Notice of Allowance is hereby respectfully requested. However, Applicant would consider further amending the claims if the Examiner has any suggested changes.

Should the Examiner feel that a telephone conference would advance the prosecution of this application, he is encouraged to contact the undersigned at the telephone number listed below.

Applicant respectfully petitions the Commissioner for any extension of time necessary to render this paper timely.

Please charge any fees due or credit any overpayment to Deposit Account No. 16-2435.

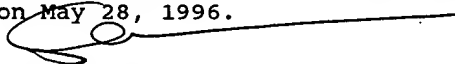
Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on May 28, 1996.



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